

# Amherst Master DRAFT Charter

Version 05.29.17

**Note:**

*This iterative draft document will evolve as the Charter Commission makes and then revisits its decisions. Nothing in this document should be presumed finalized until a vote has been taken on the entire document at the end of the process.*

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No highlighting: Commission has tentatively approved language

**Blue highlighting:** New text and changes to review due specifically to new executive direction

**Yellow highlighting:** Additional suggested edits/areas to revisit

## PREAMBLE

Optional. TBD.

DRAFT

## **ARTICLE 1: INCORPORATION, POWERS, ETC.**

### **SECTION 1-1: INCORPORATION**

The inhabitants of Amherst, within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "Town of Amherst."

### **SECTION 1-2: SHORT TITLE**

This instrument shall be known and may be cited as the Amherst Home Rule Charter.

### **SECTION 1-3: DIVISION OF POWERS**

All legislative powers of the town shall be exercised by a Town Council hereafter established by this Charter. The administration of all town fiscal, prudential and municipal affairs shall be vested in the executive branch headed by the Town Manager.

### **SECTION 1-4: POWERS OF THE TOWN**

Subject only to express limitations on the exercise of any power or function by a municipal government in the constitution or general laws of the commonwealth, it is the intention and the purpose of the voters of Amherst through the adoption of this charter to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated in this act.

### **SECTION 1-5: CONSTRUCTION**

The powers of Amherst under this charter are to be construed liberally in favor of the municipality, and the specific mention of any particular power is not intended to limit the general powers of the municipality as stated in this Article. To the extent that any provision of this charter shall conflict with any special act or general law adopted by the municipality to the contrary, the provision of this charter shall prevail.

### **SECTION 1-6: INTERGOVERNMENTAL RELATIONS**

Subject only to express limitations in the constitution or general laws of the commonwealth, Amherst may exercise any of its powers or perform any of its functions, and may participate in their financing, jointly or in cooperation, by contract or otherwise, with the commonwealth or any agency or political subdivision of the commonwealth, or with the United States government or any of its agencies.

### **SECTION 1-7: DEFINITIONS**

Unless another meaning is clearly apparent from the manner in which the word or phrase is used, the following words and phrases as used in this charter shall have the following meanings:

Charter - The word "charter" shall mean the Amherst Home Rule Charter and includes any amendment to it hereafter adopted.

Emergency - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.

Ex-Officio – The word “ex-officio” shall mean by virtue or because of an office.

Full Council - The words "full Council" shall mean the entire membership of the Town Council notwithstanding any vacancy which might exist.

general laws - The words "general laws" (all lower case letters) shall mean laws enacted by the state legislature which apply alike to all cities and towns, to all cities, or to a class of 2 or more cities, or cities and towns of which Amherst is a member.

General Laws - The words "General Laws" (initial letter of each word in upper case letters) shall mean the General Laws of the Commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.

Law – The word “law” when used alone shall mean any statute enacted by the General Court of Massachusetts or any statute enacted by the Congress of the United States and whether otherwise called a General Law or a special law or a public law.

Local Newspaper - The words "local newspaper" shall mean a newspaper of general circulation within Amherst, with either a weekly or daily circulation.

Majority Vote - The words "majority vote" when used in connection with a meeting of a multiple member body shall mean a majority of those present and not abstaining, unless another provision is made by charter, by bylaw, by law, or **by its own rules**.

Measure -The word "measure" shall mean any bylaw, order, resolution, or other vote or proceeding adopted, or which the Town Council might adopt.

Multiple Member Body - The words "multiple member body" shall mean any board, commission, committee, sub-committee or other body consisting of 3 or more persons whether elected, appointed or otherwise constituted, but not including the Town Council, **Board of Library Trustees**, or the School Committee.

Organization plan or reorganization plan – The words “organization plan” or “reorganization plan” shall mean a plan submitted by the **manager** to the council which proposes the abolition or consolidation of one or more municipal agencies, including the reassignment of functions from one agency to another, or the establishment of one or more new municipal agencies as deemed necessary to deliver one or more municipal services.

Quorum - The word "quorum" shall mean a majority of all members of a multiple member body notwithstanding any vacancy which might exist unless some other number is required by law or by bylaw.

**Resident – The word “resident” shall be defined as in General Law.**

Special act – The word “special act” shall mean a law enacted by the state legislature which applies only to Amherst.

Supermajority - The word “supermajority” shall mean at least 2/3 of the Town Council or board or committee.

**Comment [T1]:** See <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/tirs/tirs-by-years/1990-1999-releases/tir-95-7-change-in-the-definition-of.html>  
Would we like this to be “domicile” instead?  
<http://www.mass.gov/dor/individuals/filing-and-payment-information/guide-to-personal-income-tax/residency-status.html>

Temporary Absence – The words “temporary absence” shall mean a period after which the office holder intends to return to his or her office.

Town - The word "town" shall mean the Town of Amherst.

Town Agency -The words "town agency" shall mean any multiple member body, any department, division, or office of the Town of Amherst.

Town Bulletin Boards - The words "town bulletin boards" shall mean the display in the town hall on which the Town Clerk posts official notices of meetings and upon which other official town notices are posted, and the display at any other locations as may be designated by the Town Council.

**Comment [T2]:** Further review?

Town website – The words “town website” shall mean a site established and maintained by the town as its online repository of municipal information, whether on the internet or another comparable technology.

Town officer – The word “town officer” when used without further qualification or description, shall mean a person having charge of an office, or department, who in the exercise of the powers or duties of that position exercises some portion of the sovereign power of the town.

Vacancy- The word “vacancy” shall mean the permanent absence of an office holder from the position to which there is no intention that he or she shall return.

Voters -The word "voters" shall mean registered voters of the Town of Amherst.

## ARTICLE 2: LEGISLATIVE BRANCH

### SECTION 2-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY

(a) Composition - There shall be a town council consisting of 13 members which shall exercise the policy leadership and legislative powers of the town. Three of these members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. Ten of these members, to be known as ward councilors, shall be nominated from and elected by the voters in each ward, with 1-2 such councilors to be elected from each of the 10-5 wards into which the town is divided under section [Reference].

**Comment [mjw3]:** Added and flagged per request of Chair after last full meeting.

(b) Term of Office - The term of office for councilors ~~at large~~ shall be 4-2 years each, ~~and the term of office for district councilors shall be 2 years each~~, beginning on the first Monday in the January succeeding the councilor's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day, and until successors have been qualified.

(c) Eligibility - Any voter shall be eligible to hold the office of councilor-at-large. A ward councilor shall be a voter in the ward from which election is sought. If a ward councilor or a councilor-at-large removes from the town during the councilor's term, that office shall immediately be deemed vacant and filled in the manner provided in section [reference]. A ward councilor who moves from the ward in which the councilor was elected and who remains a resident of the town may continue to serve during the term for which the councilor was elected. The town council shall determine whether a town councilor has removed from the town.

**Comment [mjw4]:** Researching possibility of including non-voting residents in the eligibility to be councilors.

### SECTION 2-2: CHAIR AND VICE-CHAIR, ELECTION; TERM; POWERS

(a) Election and Term - As soon as practicable-practical after the councilors-elect have been qualified following each regular town election, as provided in [reference], the members of the town council shall elect from among its members a chair and vice-chair who shall serve for 1-year terms. The method of election of the chair and vice-chair shall be prescribed within the rules of the town council. The rules of the then outgoing town council shall govern the election of the chair and vice-chair.

(b) Powers and Duties - The chair shall prepare the agenda for town council meetings with advice from the council and the town manager. The chair shall preside at all meetings of the town council, regulate its proceedings, and decide all questions of order. The chair shall appoint and oversee all members of committees of the town council, whether special or standing. The chair shall have the same powers to vote upon measures coming before the town council as any other member of the town council. The chair shall perform ceremonial functions and any other duties consistent with the office that are established by charter, bylaw, or other vote of the town council. The vice-chair shall preside in the absence of the chair.

### SECTION 2-3: PROHIBITIONS

(a) Holding Other town Position – Except as otherwise provide by the charter, no member of the town council shall hold any other compensated town position. No former member of the town council shall hold any compensated appointed town position until 18 months following the date on which the former

member's service on the town council has terminated unless such appointment is affirmed by a vote of 75% of members of the full town council. This section shall not prevent a town employee who vacated a position in order to serve as a member of the town council from returning to the same position upon the expiration of the term for which that person was elected.

(b) Interference with Administration - No town council or any member of the town council shall give orders or directions either publically or privately to any employee of the town who is not appointed by the town council.

#### SECTION 2-4: COMPENSATION

The members of the town council shall receive compensation for their services as set by bylaw. No bylaw increasing or reducing the compensation of the members of the town council shall be effective unless it is adopted by a vote of 75% of the full town council. No bylaw increasing or reducing the compensation of councilors shall be effective unless it is adopted during the first 22 months of the ward councilors' terms and the first 46 months for the at-large councilors' terms and it provides that the compensation increase or reduction is to take effect upon the organization of the town government following the next regular town election at which at large councilors are to be elected.

#### SECTION 2-5: GENERAL POWERS

Except as otherwise provided by the General Laws or by this charter, all powers of the town shall be vested in the town council, which shall provide for the performance of all duties and obligations imposed upon the town by law.

#### SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES

(a) Exercise of Powers - Except as otherwise provided by the General Laws or by this charter, the legislative powers of the town council may be exercised in a manner determined by the town council.

(b) Quorum - The presence of 7 members shall constitute a quorum for the transaction of business. Except as otherwise provided by General Laws or by this charter, the affirmative vote, taken by a roll call vote, of 7 members of the town council shall be required to adopt any bylaw.

(c) Rules of Procedure - The town council shall adopt rules regulating the procedures of the town council, which shall include, but not be limited to, the following rules:

(i) regular meetings of the town council shall be held at a time and place fixed by bylaw, but not less than once per month, and all regular meetings of the town council shall provide for a period of public comment; the town council may promulgate rules that regulate the period of public comment as deemed appropriate;

(ii) special meetings of the town council shall be held at the call of the chair or at the call of any 3 or more members, for any purpose; notice of the meeting shall, except in an emergency, which shall be designated by the chair, be delivered to each member at least 48 weekday hours in advance of the

**Comment [T5]:** There was some question as to whether to apply this to ALL regular meetings. This is fairly standard language. One alternative would be to not mention public comment and leave it to the council rules.



time set and shall specify the date, time and location of the meeting and the purposes for which the meeting is to be held; a copy of each notice shall immediately be posted as the General Laws relative to such postings require;

(iii) all sessions of the town council and of every committee or subcommittee of the council shall, at all times, be open to the public, unless otherwise specified by law; and

(iv) a full, accurate, up-to-date account of the proceedings of the town council shall be maintained by the town clerk, which shall include a record of each vote taken by each member and which shall be made available with reasonable promptness following each meeting, but not later than the next regularly scheduled meeting; unless otherwise provided by law, the minutes of an executive session shall be made available as soon as publication of the minutes would not defeat the purpose of the executive session.

#### SECTION 2-7: PRECINCT MEETINGS

Every ~~precinct-ward~~ councilor shall convene a minimum of 2 ward meetings in his or her ward each year open to all residents to facilitate two-way communication between the town council and other government representatives and the residents of the precinct. Residents may submit agenda items in advance and meetings must include a period of public comment open to all residents of the ~~precinctward~~.

#### SECTION 2-8: ACCESS TO INFORMATION

(a) In General - The town council may make investigations into the affairs of the town and into the conduct and performance of any town agency.

(b) Information Requests - The town council may require a member of a multiple-member body or a town employee to appear before the town council to give any information that the town council may require in relation to the municipal services, functions and powers, or duties which are within the scope of responsibility of that person and not within the jurisdiction of the school committee.

(c) Town Manager - The Town Council may require the Town Manager to provide specific information to it on any matter within the jurisdiction of the Town Council. The Town Council may require the Town Manager to appear before it at any time to provide specific information on the conduct of any aspect of the business of the town. The Town Manager may bring to such meeting any assistant, department head or other town official or employee or other resources to assist the Town Manager in responding to questions which may be posed by the Town Council.

(d) Notice - The town council shall give a minimum of 7 days notice to a person it may require to appear before it under this section. The notice shall include specific questions on which the town council seeks information and no person called to appear before the town council under this section shall be required to respond to any question not relevant or related to those questions presented in advance and in writing.

**Comment [mjw6]:** Researching whether the school committee must be exempt.

## SECTION 2-9: APPOINTMENTS OF THE TOWN COUNCIL

(a) Clerk of the Council—The town council shall elect a clerk of the council to hold office at its pleasure. The clerk of the council shall give notice of all meetings of the town council to its members and to the public, keep a record of its proceedings and perform duties as may be assigned by this charter, by ordinance or by other vote of the town council.

(b) Subject to appropriation, the town council may employ staff as it deems necessary.

(c) Members of the zoning board of appeals and planning board.

**Comment [mjw7]:** New text added per Commission meeting on 5/13, also pending further discussion of planning board.

## SECTION 2-10: BYLAWS AND OTHER MEASURES

(a) Bylaws- Proposed bylaws shall address 1 subject only and shall be introduced in writing and in the form necessary for final adoption. Any proposed bylaw shall be published in a local newspaper, on the town bulletin board, and on the town's website or other official online repository of municipal information, whether on the internet or accessed through another comparable technology, not less than 7 days prior to its second reading except for emergency bylaws.

Any bylaw which amends or repeals a portion of any town bylaw shall set out in full the portion to be so amended or repealed, by the use of strikeout type, brackets or underscoring.

Prior to final passage, each introduced bylaw shall be read at 2 separate Council meetings, except in case of an emergency involving the health or safety of the people or their property.

The affirmative vote of a majority of the full Council membership, except as otherwise provided by the General Laws or this charter, shall be necessary for the final passage of any bylaw.

(b) Emergency Measures- An emergency measure shall be introduced in the form and manner prescribed for measures generally, except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing the scope and nature of the emergency in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of 2/3 of the full town council. An emergency measure shall become effective upon adoption or at such later time as it may specify.

(c) Right to Postpone - On the first occasion that the question on adoption of a measure is put to the town council, if a single member present objects to the taking of the vote, the vote shall be postponed until the next meeting of the town council, whether regular or special. If 2 members present object, such postponement shall be until the next regular meeting. If it is an emergency measure, at least 4 members must object. This procedure shall not be used more than once for any specific matter notwithstanding an amendment to the original matter. The use of this right to postpone shall have privilege over all motions but must be raised prior to or at the call for a vote by the presiding officer and all debate shall cease.

**Comment [mjw8]:** Placeholder while considering options for a better term for this.

## SECTION 2-11: TOWN COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

**Comment [T9]:** Check against new executive article

The **manager** shall refer to the town council and simultaneously file with the town clerk, the name of each person the manager desires to appoint as a town officer, department head or as a member of a multiple-member body, but not including any position which is subject to the civil service law. The town council shall refer each name submitted to a standing committee of the council which shall review each candidate for appointment and shall make a recommendation to the full town council not less than 7 nor more than 45 days after the referral. The committee may require any person whose name has been referred to appear before the committee or before the town council to give any information relevant to the appointment that the committee or the town council may require. Appointments made by the **manager** shall become effective on the forty-fifth day after the date on which notice of the proposed appointment was filed with the town clerk unless approved or rejected by a majority of the town council within the 45 days.

## SECTION 2-12: FILLING OF VACANCIES

### (a) Councilor-at-Large Vacancy

(i) Vacancy during Initial 16 Months of Term: If a vacancy shall occur in the office of councilor-at-large during the first 16 months of the term for which councilors are elected, the vacancy shall be filled by a special election. A preliminary election will be held within 60 days following the vacancy, and the special election shall be held 35 days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term.

(ii) Vacancy between 17 and 21 Months of Term: If a vacancy shall occur in the office of councilor-at-large during or after the 17th month, but before the 21st month of the term to which elected, the vacancy shall be filled at the next regular town election and the candidate elected shall serve for the remainder of the present term.

(iii) Vacancy after initial 21 Months of Term, but prior to 42nd Month of Term: If a vacancy shall occur after the 21st month of the term to which elected, but before the 42nd month, the vacancy shall be filled by a special election. A preliminary election will be held within 60 days following the vacancy, and the special election shall be held 35 days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term.

(iv) Vacancy during or after 42nd month of Term: Any vacancy in the office of councilor at large during or after the 42nd month of the term to which elected shall be filled at the next regular town election. The candidate so elected shall take office immediately, and serve for the remaining 2 months of the present term as well as to the term to which elected.

(b) District Councilor Vacancy - If a vacancy shall occur in the office of district councilor in the initial 18 months of the term the vacancy shall be filled by a special election. A preliminary election will be held within 60 days following the vacancy, and the special election shall be held 35 days following the preliminary. The candidate elected shall be qualified by the council and shall serve for the balance of the then unexpired term. Any vacancy occurring after the 20th month of the term shall be filled at the next regular town election. The candidate so elected shall take office immediately, and serve for the remaining months of the present term as well as to the term to which elected.

(c) Filling of Vacancies by Council - Whenever a vacancy shall occur in the office of councilor-at-large or in that of district councilor and there is no available candidate to fill the vacancy in the manner provided in section Article II, sections 11(a) or 11(b), the vacancy shall be filled by vote of the remaining members of the council. Notice of said councilor vacancy shall be posted for a minimum of 21 days prior to the meeting at which the council shall fill any such vacancy.

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## ARTICLE 3: TOWN MANAGER

### SECTION 3-1: APPOINTMENT, QUALIFICATIONS, TERM OF OFFICE

The town council shall appoint a town manager by a majority vote of the full town council. The town manager shall be a person of proven administrative ability, especially qualified by education and training with prior experience as a city or town manager or an assistant city or town manager or the equivalent public or private sector level experience. The town council may establish additional qualifications as deemed necessary and appropriate. The town manager shall devote full-time to the duties of the office and shall not hold any other elective or appointive office in the town, nor shall the town manager engage in other business unless such business is approved in advance by a majority vote in public session of the town council. The town manager need not be a resident of the town at the time of appointment, but must establish residency within one year, ~~unless waived by town council.~~ unless the Town Council shall waive such residency requirement.

### SECTION 3-2: ADMINISTRATIVE POWERS AND DUTIES

The town manager shall be the chief executive officer of the town and shall be responsible to the town council for the proper operation of town affairs for which the town manager is given responsibility under this charter. The powers, duties, and responsibilities of the town manager shall apply to all municipal departments, ~~excluding those powers, duties, and responsibilities vested in the~~ Regional School District. These powers, duties, and responsibilities shall include, but shall not be limited to, the following:

Comment [mjw10]: Add Schools and Library

~~(a) to supervise, direct, and be responsible for the efficient administration of all officers appointed by the town manager and their respective departments and of all functions for which the town manager is given responsibility under this charter, by bylaw, or by vote of the town council;~~

to supervise, direct, and be responsible for the efficient administration of all Town activities placed under his or her control by the charter, by bylaw, or otherwise, including all officers appointed by him or her and their respective agencies.

(b) to administer either directly or through a person supervised by the town manager, in accordance with this charter, all provisions of any general or special law applicable to the town, all bylaws, and all regulations established by the town council;

(c) to coordinate all activities of ~~town~~ Town departments or appointed boards, committees, or agencies;

~~(d) to provide consultative services to elected boards, committees, or agencies;~~

(e) to attend all regular and special meetings of the town council, unless excused, and answer all questions addressed to the town manager which are related to matters under the general supervision of the town manager;

~~(f) to have the right to take part in discussions of the town council, but not vote;~~

(g) to keep the town council fully informed as to the needs of the town, and to recommend to the town council for adoption, such measures requiring action by them ~~as the town manager deems necessary or expedient;~~

(h) to make recommendations to the town council concerning the affairs of the town and facilitate the work of the town council in developing policy;

(i) to ensure that complete records of the financial and administrative activity of the town are maintained and to render reports to the town council as may be required;

(j) to be responsible for the rental, use, maintenance, and repair of all town facilities, except for the school department, unless otherwise specifically requested by the School Committee;

(k) to be responsible for purchasing all supplies, materials, services, and equipment, for all departments and activities of the town, and for executing procurement contracts, except for the school department, unless otherwise specifically requested by the School Committee;

**Comment [mjw11]:** Include library?

(l) to develop and maintain a complete inventory of all town-owned real and personal property;

(m) to administer personnel policies, practices, or rules and regulations, any compensation plan, and related matters for all town employees placed under the town manager's control by or under this charter, and to administer all collective bargaining agreements entered into by the town;

(n) to fix-set the compensation of all town employees and officers placed under the town manager's control by or under this charter appointed by the town manager within the limits established by appropriation and applicable compensation plan;

**Comment [mjw12]:** Cross-check with definitions

**Comment [mjw13]:** Schools exemption throughout? Develop/confirm consistent way to handle this.

(o) to be responsible for the negotiation of all contracts with town employees placed under the town manager's control by or under this charter over wages, and other terms and conditions of employment. The town manager may employ special counsel to assist in the performance of these duties. Insofar as they require appropriations, contracts shall be subject to the approval of the town council.

(r) to keep the town council fully informed as to the financial condition of the town and to make recommendations to the town council as the town manager determines necessary or expedient;

(p) to prepare and submit an annual operating budget, capital improvement program, and a long term financial forecast as provided in Article \_\_\_\_\_;

(q) to ensure that the council-president town council is kept fully informed of and fully involved in the town's emergency preparedness planning and preparation;

**Comment [mjw14]:** Do we need town manager emergency language?

to determine the existence of a public emergency or danger and to assume responsibility for the maintenance of public safety, public order and enforcement of laws. The manager shall notify the council president as soon as practical, but within 24 hours, of such a public emergency or danger and of the actions taken. Should the public emergency continue more than 24 hours, the town council may meet to review, ratify, or terminate said public emergency.

**Comment [mjw15]:** From Watertown. New here. Move to following (h).

(s) to assist the town council to develop long-term goals for the town and strategies to implement these goals;

**Comment [mjw16]:** Additional potential language to include: "to integrate with workplans; to ensure that staff understand those" etc.

(t) to investigate or inquire into the affairs of any town department, agency, or office under the authority of the town manager;

**Comment [mjw17]:** Cross-check with definitions

(u) to delegate, authorize, or direct a subordinate or employee of the town to exercise any power, duty, or responsibility which the office of town manager may exercise; all acts that are performed under the delegation shall be considered to be the acts of the town manager;

(v) to perform such other duties as necessary or as may be assigned by this charter, by bylaw, or by vote of the town council;

~~(w) to provide staff support services for the council president and town council members;~~

(x) unless otherwise provided by agreement, bylaw, or general law, to serve as the town's liaison to any regional entity of which the town is a member and to explore opportunities for intergovernmental cooperation;

(y) to promote partnerships among town council, staff, ~~citizens-residents~~, and businesses in developing public policy and building a sense of community;

**Comment [mjw18]:** For REORG: make these last.

**Comment [mjw19]:** What about execution of Town deeds? Need to research

#### NEW SECTION; COMMUNICATIONS WITH THE PUBLIC

~~(z) to hold regular informational sessions with departments and community-based organizations; and~~

~~(aa) to no less than once a month, No~~ communicate with the public by appropriate means.

State of the Town: Each year the town council chair and the town manager shall make an address to the town council, school committee, library trustees, and the public reporting on the state of affairs of the town.

Public Forums – With consultation from the council and/or school committee, the town manager shall call 3 public forums each year addressing budget, master plan, and school issues. The intention of the public forums is to present the public with context, collect feedback, and alert the public to upcoming issues.

#### SECTION 3-3. POWERS OF APPOINTMENT

(a) Department Heads - Except as otherwise provided by this charter, the town manager shall appoint, based upon merit and fitness alone, all department heads. All appointments of department heads, **as defined within the administrative code**, shall be subject to the ratification of the town council as provided in section 2-11. The town council may establish a bylaw providing for the use and composition of search committees for department heads ~~as deemed necessary and appropriate~~. The town manager shall also appoint officers, subordinates, and employees for whom no other method of selection is provided in this charter; the town manager **shall not appoint employees of the regional school district and persons serving under officers elected under the jurisdiction of other elected bodies directly by the voters of Amherst.** ~~In accordance with the procedures set forth in section \_\_\_\_\_, the town manager may be required to consult with or engage in a joint recruitment and selection process with multiple member bodies, before the appointment of department heads or employees who perform tasks under the jurisdiction of the multiple member bodies.~~

(b) Temporary Appointments to Town Offices - Whenever a vacancy, either temporary or permanent, occurs in a town office and the needs of the town require that such office be filled, the manager may designate a person to perform the duties of the office on a temporary basis until the position can be filled as provided by law or by this charter. When the manager designates a person under this section, the manager shall file a certificate with the town clerk.

Persons serving as temporary officers under this section shall have only those powers of the office indispensable and essential to the performance of the duties of the office during the period of temporary appointment and no others. Notwithstanding any general or special law to the contrary, no temporary appointment shall be for more than 150 days, unless approved by the council.

(c) Boards, Committees, and Agencies - Except as otherwise provided by this charter, the town manager shall appoint all boards, committees, and agencies. Members of all appointed boards and committees shall be residents of the town. All appointments of boards, committees and agencies, **as defined within the administrative code**, shall be subject to the ratification of the town council as provided in section 2-11. The town manager shall form a residents' advisory committee to help in evaluating and selecting those individuals for appointment. The number and terms of office of the committee shall be established by bylaw.

**Comment [mjw20]:** See Section 2-9 for carve outs for planning and ZBA.

The **town** manager shall seek expertise in all appointments as well as diversity in neighborhood residence, age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex, and sexual orientation ~~(ANY OTHERS?)~~.

**Comment [mjw21]:** Research new base list. Perhaps some federal or state statute?

(d) Community Participation Officer - The **town** manager shall appoint a community participation officer to work with town departments and multiple-member bodies to develop and implement strategies to enhance public engagement, ~~to assist in the execution of ward meetings,~~ to provide resources and leadership development for individuals interested in getting more involved in local government either through elected or appointed positions, ~~to reach out to increase promote participation in local government by residents of diverse backgrounds,~~ ~~to process resident inquiries,~~ ~~to assist in the execution of ward meetings,~~ ~~to ensure compliance with public notice requirements,~~ ~~to coordinate participatory budgeting in the town,~~ and any other such duties. The community participation officer shall analyze data on resident engagement and shall regularly submit reports to the manager and council. The community participation officer shall assist with the Town's participatory budgeting process, as described in Article 5, Section 8.

**Comment [mjw22]:** Meg is working on further developing this language.

#### SECTION 3-4: POWERS OF SUSPENSION, REMOVAL

The town manager shall have the authority to suspend or remove department heads and appointive **administrative officers** provided for by or under this charter, except as otherwise provided by-law, collective bargaining agreements, this charter, or personnel rules adopted pursuant to this charter. The town manager may authorize an administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.

**Comment [mjw23]:** Cross check with the definitions

#### SECTION 3-5: COMPENSATION



The town manager shall receive such compensation for services as the town council shall determine, but such compensation shall be within the limits of available appropriations.

#### SECTION 3-6: VACANCY IN OFFICE

A vacancy in the office of town manager shall be filled as soon as possible by the town council. Pending appointment of the town manager or the filling of any vacancy, the town council shall forthwith appoint some other qualified person to perform the duties of the town manager. The appointment of the acting town manager shall be for a term not to exceed 3-6 months; a renewal, not to exceed an additional 63 months may be provided.

#### SECTION 3-7: TEMPORARY ABSENCE

The town manager shall designate by letter filed with the town council and ~~elected~~ town clerk, a qualified officer of the town to perform the duties of the town manager during a temporary absence or disability. The town council may not revoke such designation until at least 14 days have elapsed whereupon it may appoint such other person to perform the duties of the town manager. In the event of failure of the town manager to make such designation or if the person so designated is for any reason unable to serve, or is deemed not qualified by the town council, the town council may designate some other qualified person to perform the duties of the town manager until the town manager returns.

#### NEW SECTION 3-8: Powers and Duties of Acting or Temporary Town Manager

The powers of a temporary or acting town manager shall be limited to matters not admitting of delay; no temporary town manager under sections 3-6 or 3-7 above shall have authority to make any permanent appointment to, or removal from, any office or position under the town.

#### SECTION 3-~~98~~: REMOVAL OF TOWN MANAGER

The town council, by affirmative vote of a majority of the full town council, may vote to terminate, remove, or suspend the town manager from office in accordance with the following procedure: Before removal or termination the town council shall adopt a preliminary resolution of removal by the affirmative vote of a majority of the full town council. The preliminary resolution may suspend the town manager for a period not to exceed 30 days. A copy of the resolution shall be delivered to the town manager forthwith. If so requested by the town manager, the town council shall provide a written statement setting forth the reasons for the removal or termination. Within 5 days after the receipt of the preliminary resolution, the town manager may request a public hearing by filing a written request for such hearing with the town council. If such a hearing is requested, the hearing shall be held at a meeting of the town council not later than 20 days from the date of request. At such hearing the town manager shall be entitled to address the town council and make comments related to the preliminary resolution. If a public hearing has not been requested by the town manager, the town council may adopt a final resolution of removal, which may be effective immediately, by the affirmative vote of a majority of the full town council at any time after 10 days following the date of delivery of a copy of the

preliminary resolution to the town manager. If the town manager requests a public hearing, the town council may, at the conclusion of the hearing or within 5 days of the conclusion of the hearing, adopt a final resolution of removal by an affirmative vote of majority of the full town council. The town council may suspend, by an affirmative vote of the majority of the full town council, the town manager pending and during any public hearing ~~as requested by the town manager~~ held pursuant to this section. The town manager shall continue to receive a salary until the final date of removal becomes effective unless provided otherwise. The action of the town council in terminating, removing, or suspending the town manager shall be final.

#### SECTION 3-~~109~~: ANNUAL REVIEW OF THE TOWN MANAGER

Annually, the town council ~~to shall~~ prepare and deliver to the town manager a written evaluation of the town manager's performance, a summary of which shall be made available to the public.

## ARTICLE 4: SCHOOL COMMITTEE AND OTHER ELECTED OFFICES

### SECTION 4-1: ELECTED OFFICES IN GENERAL

(a) Offices to be Filled by Election - The offices to be filled by ballot of the town's voters shall be a Town Council as provided in Article 2, a School Committee, Library Board Of Trustees, Housing Authority, Oliver Smith Will Electors and members of regional authorities or districts requiring election as may be established by General Law, inter-local agreements, or otherwise.

(b) Eligibility - Any [voter] of the town shall be eligible to hold the position on any office in this Article, but no elected office-holder of any office in this Article shall simultaneously hold any other elected town office. If an elected office-holder of any office in this Article moves from the town during the term for which elected, the office shall immediately be considered vacant and filled in the manner provided in Section 1(c).

**Comment [mjw24]:** Researching possibility of including non-voting residents in the eligibility to be school committee members.

(c) Vacancy - Except for the Oliver Smith Will Elector, whenever a vacancy occurs on an elected multiple member body or School Committee, the Chair of the Town Council shall, within 30 days following the date of the vacancy, call a special meeting of the Town Council and the remaining of that board or committee to fill the vacancy. The Town Council and remaining board or committee members shall choose a person to fill the vacancy from among the voters by a majority vote of the full Town Council and remaining board or committee members. Persons appointed to fill a vacancy by the Town Council and the remaining board or committee members shall serve only until the next regular town election, when the office shall be filled by the voters. The candidate elected to an office filled by appointment prior to the election shall be sworn to the office immediately to complete the then unexpired term in addition to the term for which elected. No vacancy shall be filled under this section if a regular town election is to be held within 120 days following the date the vacancy is declared to exist, but said vacancy shall be filled at the next regular town election by the voters. Persons appointed as board or committee members under this section shall not be entitled to have the words "candidate for reelection" printed with that person's name on the election ballot.

(d) Compensation - Except for the Oliver Smith Will Elector, any compensation for office-holders of any office in this Article shall be set by the Town Council and in the annual Town Budget. No increase or reduction for the compensation of the members of the office-holders shall be effective unless it is adopted by a 2/3 vote of the full town council.

### SECTION 4-2: SCHOOL COMMITTEE

**Comment [mjw25]:** Still to be discussed.

(a) Composition and Term - There shall be a School Committee consisting of [Decision – number of members] members. [Decision – number of at large members] these members shall be nominated and elected by and from the voters at large. [Decision – number of district members] of these members shall be nominated from and elected by the voters in each ward, with [X] such member to be elected from each of the 10 wards into which the town is divided under section [Reference]. The term of office for school committee members shall be [Decision – term length] years, beginning on the first Monday in the January succeeding the member's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and until successors have been qualified.

(b) Officers - As soon as practicable after the members-elect have been qualified following each regular town election, as provided in [reference], the members of the school committee shall elect from among its members a chair and vice-chair who shall serve for 1-year terms. The method of election of the chair and vice-chair shall be prescribed within the rules of the school committee. The rules of the then outgoing school committee shall govern the election of the chair and vice-chair.

(c) Powers and Duties: The School Committee shall have all of the powers and duties School Committees may have under the constitution and laws of the Commonwealth, and it shall have such additional powers and duties not inconsistent with said constitution and laws, as may be authorized by this charter or by bylaw. The School Committee shall make an annual report as specified in the town bylaws.

#### SECTION 4-3: LIBRARY BOARD OF TRUSTEES

(a) Composition and Term - There shall be a Library Board of Trustees consisting of 6 members nominated and elected by and from the voters at large. The term of office for Trustees shall be 2 years, beginning on the first Monday in the January succeeding the Trustee's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and until successors have been qualified.

(b) Officers - As soon as practicable after the Trustees-elect have been qualified following each regular town election, as provided in [reference], the members of the Library Board of Trustees shall elect from among its members a chair and vice-chair who shall serve for 1-year terms. The method of election of the chair and vice-chair shall be prescribed within the rules of the Library Board of Trustees. The rules of the then outgoing Library Board of Trustees shall govern the election of the chair and vice-chair.

(c) Powers and Duties: The Library Board of Trustees shall have all of the powers and duties Library Board of Trustees may have under the constitution and laws of the Commonwealth, and it shall have such additional powers and duties not inconsistent with said constitution and laws, as may be authorized by this charter or by bylaw. The Library Board of Trustees shall make an annual report as specified in the town bylaws.

#### SECTION 4-4: HOUSING AUTHORITY

(a) Composition and Term - There shall be a Housing Authority consisting of 5 members, with 3 of those members nominated and elected by and from the voters at large, 1 of those members appointed by the Commonwealth, and 1 elected tenant member. The term of office for the elected members shall be [Decision – term length] years, beginning on the first Monday in the January succeeding the member's election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day and until successors have been qualified. The term of office for the appointed member shall be as provided by the Massachusetts General Laws.

(b) Officers - As soon as practicable after the members-elect have been qualified following each regular town election, as provided in [reference], the members of the Housing Authority shall elect from among its members a chair and vice-chair who shall serve for 1-year terms. The method of election of the chair

and vice-chair shall be prescribed within the rules of the Housing Authority. The rules of the then outgoing Housing Authority shall govern the election of the chair and vice-chair.

(c) Powers and Duties: The Housing Authority shall have all of the powers and duties housing authorities may have under the constitution and laws of the Commonwealth, and it shall have such additional powers and duties not inconsistent with said constitution and laws, as may be authorized by this charter or by bylaw. The Housing Authority shall make an annual report as specified in the town bylaws.

#### SECTION 4-5: OLIVER SMITH WILL ELECTORS

One member shall be elected by and from the voters of the town at large for a term of 2 years. Whenever a vacancy occurs in the office of Oliver Smith Will Elector, the town council shall, within 30 days following the date of that vacancy, act to fill the vacancy. A person elected to fill a vacancy by the town council shall serve only until the next regular town election, when the office shall be filled by the voters. The person elected at such regular town election shall take office immediately. No vacancy shall be filled under this section if a regular town election is to be held within 120 days following the date of the vacancy. A person serving as Oliver Smith Will Elector under this section shall not be entitled to have the words "candidate for reelection" printed next to that person's name on the election ballot.

## ARTICLE 5: FINANCIAL POLICIES AND PROCEDURES

### SECTION 5-1: FISCAL YEAR

The fiscal year of the town shall begin on the first day of July and shall end on the last day of June, unless another period is required by general law.

### SECTION 5-2: JOINT MEETING

The **manager** shall call a joint meeting of the Budget Coordinating Group before the commencement of the budget process and during the budget process, as necessary, to review the financial condition of the town, revenue and expenditure forecasts and other relevant information prepared by the manager in order to develop a coordinated budget, budget guidelines, and coordinated budget calendar.

The Budget Coordinating Group shall consist of the **manager** and the town council, elementary and regional schools, library, and any other persons the **manager** deems necessary.

### SECTION 5-3: PUBLIC FORUM

Before submitting a proposed budget to the town council, the **manager** shall hold at least one public forum on the topic of the proposed budget intended to present the public with the **manager's** priorities, context based on prior years' budgets and relevant information, as well as to solicit feedback from the public.

### SECTION 5-4: SUBMISSION OF BUDGET; BUDGET MESSAGE

- a) Not later than 60 days before the start of the town's fiscal year, the **manager** shall submit to the town council a proposed budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The **manager** shall simultaneously have the entire document publicly posted.
- b) The budget message of the manager shall explain the proposed budget for all town agencies both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current fiscal year in financial policies, expenditures and revenues, together with the reasons for these changes, summarize the town's debt position, and include other material that the **manager** considers desirable, or that may be required by the provisions of a town bylaw. It shall also outline the progress being made on the capital improvement program.
- c) The proposed budgets adopted by the local school committee, regional school committee, and library board of trustees shall be submitted to the **manager** at least 28 days before the date the **manager** is required to submit a proposed budget to the town council.
- d) The proposed budget shall provide a complete financial plan for all town funds and town activities for the ensuing fiscal year. Except as may otherwise be required by general law or this charter, it shall be in the form that the **manager** considers desirable or that a town bylaw may require.

#### SECTION 5-5: ACTION ON THE BUDGET

- a) Public Hearing: Immediately upon its receipt of the proposed budget, the town council shall refer the budget to the town council's Finance subcommittee. The Finance subcommittee shall hold a public hearing on the proposed budget, providing no less than 10 days' notice of such hearing. The subcommittee will thoroughly review the budget and make a presentation and recommendation to the full town council within 21 days.
- b) Finance subcommittee: The Finance Subcommittee of the town council shall consider any or all questions which it deems appropriate for the purpose of considering the budget. It shall have authority at any time to investigate the books, accounts, and management of any department of the town and to require officers and employees of the town to appear before it and to provide information. The Finance Subcommittee may include non-voting members of the public.
- c) Action by Town council: The town council shall adopt the budget, with or without amendments, within 21 days after the day the proposed budget is reported out by its Finance subcommittee. In amending the budget, the town council may delete or decrease any programs or amounts except expenditures required by law; except on the recommendation of the **manager**, the town council shall not increase any item in or the total of the proposed budget, unless otherwise authorized by the General Laws. If the town council fails to take action on an item in the proposed budget within said 21-day period, that amount shall, without any action by the town council, become a part of the appropriations for the ensuing fiscal year and shall be available for the purposes specified. The vote to approve the budget shall be on a roll call vote.

#### SECTION 5-6: SUPPLEMENTARY BUDGETS, OTHER APPROPRIATIONS

Whenever the **manager** shall submit to the town council a request for a new appropriation of any sum of money, either as a supplement to some item in the annual budget or for an item, or items, not included in the annual budget as adopted, the town council shall not act upon the request until it has (1) been reviewed by the Finance subcommittee, (2) been publicly posted for a minimum of 10 days and (3) held a public hearing concerning the request.

#### SECTION 5-7: CAPITAL INVENTORY AND CAPITAL IMPROVEMENT PROGRAM

- a) Capital Inventory: The **manager** shall establish and update not less frequently than annually an inventory of significant capital assets such as buildings, infrastructure (water, sewer, storm water, and roads), moveable equipment and such other property as determined by bylaw. The town council shall by bylaw establish the requirements of the inventory, such as age, condition, maintenance and repair history, remaining useful life and other features as the town council may deem appropriate.
- b) Capital Improvement Program: The **manager**, with the advice of a joint capital planning committee comprised of, at a minimum, representatives from the town council, school committee, and library board of trustees, shall create a capital improvement program, which shall include: (i) a clear summary of its contents; (ii) a list of all capital improvements proposed to be undertaken during the next 5 fiscal years with supporting data and rationale; (iii) cost estimates, method of financing and

recommended time schedules; and (iv) the estimated annual cost of operating and maintaining the facilities and/or equipment included. The above information shall be revised and extended each year.

- c) Submission: The **manager** shall prepare and submit to the town council the inventory and the 5-year capital improvement program at least 120 days prior to the manager's submission of the next fiscal year's budget.
- d) Public Hearing: The town council shall make the proposed capital improvement program available to the public and shall hold at least one public hearing on the capital improvement program.
- e) Adoption: At any time after the public hearing but before the first day of the last month of the current fiscal year, the town council shall by resolution adopt the capital improvements program, which may be amended, provided that each amendment shall be voted on separately and that an increase in the capital improvements program as submitted shall clearly identify the method of financing to accomplish the proposed increase.

#### SECTION 5-8: PARTICIPATORY BUDGETING

A portion of not less than \_\_\_\_% of the capital portion of the annual budget shall be allocated to projects that are initiated by and voted upon by the residents of Amherst. The town council shall by bylaw establish the process for allocating this portion of the capital budget.

**Comment [mjw26]:** Commission getting advice from Town Manager and from Cambridge.

#### SECTION 5-9: INDEPENDENT AUDIT

The town council shall annually provide for an outside audit of the books and accounts of the town to be conducted by a certified public accountant or a firm of certified public accountants, which has no personal interest, direct or indirect, in the fiscal affairs of the town or any of its officers. The **manager** shall annually provide to the town council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the **manager**, in writing, by the town council. The award of a contract to audit shall be made by the town council on or before September 15 of each year. The clerk of the council shall coordinate the work of the individual or firm selected. The report of the audit shall be filed in final form with the town council not later than March 1 in the year following its award.

**Comment [mjw27]:** Look into requirement to switch audit firms every five years.



## ARTICLE 6: ADMINISTRATIVE ORGANIZATION

### SECTION 6-1: ORGANIZATION OF TOWN AGENCIES

(a) The **manager** may prepare and submit to the town council reorganization plans which may, subject to applicable law and this charter, reorganize, consolidate or abolish any town agency, in whole or in part, or establish new town agencies as the **manager** considers necessary or expedient. The reorganization plan shall be accompanied by an explanatory memo which shall include: (i) reference to any bylaws to be repealed or modified; (ii) a summary of proposed bylaw language changes to be put into effect by the plan; and (iii) a summary of the estimated financial impact of the proposed changes.

(b) Every reorganization plan shall, upon receipt by the town council, be referred to an appropriate committee of the town council which shall, not more than 30 days after receipt of the plan, hold a public hearing on the matter and shall, not later than the second regular meeting of the town council following the hearing, report either that it approves or disapproves of the plan. A reorganization plan shall become effective 60 days after the date it is received by the town council unless the town council has prior to that date voted to disapprove the reorganization plan or unless a later effective date is specified in the plan. A reorganization plan presented by the **manager** to the town council under this section shall not be amended by the town council but shall either be approved or rejected as submitted. Reorganization plans shall not be subject to charter objection as provided in section 2-10(c).

**Comment [mjw28]:** Should this be full Council or sub-committee?

**Comment [mjw29]:** Change this language when Commission decides on new term for this.

### SECTION 6-2: MERIT PRINCIPLE

All appointments and promotions of town officers and employees shall be made on the basis of merit and fitness demonstrated by examination, past performance or by other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person especially fitted by education, training and previous work experience to perform the duties of the office or position.

### SECTION 6-3: BOARD OF LICENSE COMMISSIONERS

There shall be a board of license commissioners which shall have the power to issue licenses for innholders or common victuallers, the powers of a licensing board appointed under section four of chapter 138 of the General Laws, be the licensing authority for the purposes of chapter 138 and chapter 140 of the General Laws and which shall have all of the other powers with respect to licenses which prior to the adoption of the home rule charter were exercised by the board of selectmen. The board of licensing commissioners may grant licenses relating to alcoholic beverages under chapter 138 of the General Laws and those licenses under chapter 140 of the General Laws which are not, by the provisions of said chapter, placed within the jurisdiction of another municipal officer or agency, and it shall have all the powers and duties of a licensing authority under said chapters.

The board of license commissioners shall consist of five residents appointed by the **manager** and confirmed by the town council. Such appointed members shall serve for 3 year terms. No person while a member of the board of license commissioners shall have any connection, directly or indirectly, with the sale or distribution of alcoholic beverages (or marijuana) in any form.

The town clerk, the building inspector, the director of public health, the fire chief and the police chief (or persons performing similar duties under any other title) shall be advisory to board of license commissioners.

SECTION 6-3: [Placeholder for Planning]

**Comment [mjw30]:** Leaving this here in case the Commission wants to put in any planning pieces here.

DRAFT

## ARTICLE 7: ELECTIONS

TBD

DRAFT

## ARTICLE 8: CITIZEN RELIEF MECHANISMS

**Comment [mjw31]:** Looking for title that of article that does not include "Citizen"

### SECTION 8-1. FREE PETITION

- a) Individual Petitions, Action Discretionary — The town council, school committee, and library trustees shall receive all petitions signed by one or more voters and addressed to either of them and may, in their discretion, take such action in regard to such petitions as they deem necessary and advisable.
- b) Group Petitions, Action Required — The town council, school committee, or library trustees shall hold a public hearing and act with respect to every petition which is addressed to it and which is signed by at least 50 voters. The hearing shall be held by the town council, school committee, or library trustees, or in any case, by a committee or subcommittee thereof, and the action by the town council, school committee, or library trustees shall commence not later than two months after the petition is filed with the clerk of the town council, school committee, or library trustees. Hearings on two or more petitions filed under this section may be held at the same time and place. The clerk of the council or the secretary of the school committee or library trustees shall mail notice of the hearing to the ten petitioners whose names first appear on each such petition at least seven days before the hearing. The town council, school committee, or library trustees shall publish in one or more local newspapers a general summary of the subject matter of such petitions and a notice stating: (1) the times and places where copies of the citizen petitions are available for inspection by the public, and (2) the date, time, and place not less than two weeks after such publication, when a public hearing on said petitions will be held by the town council, school committee, or library trustees.

### SECTION 8-2. CITIZEN INITIATIVE MEASURES

- a) Commencement - Initiative procedures shall be started by the filing of a proposed initiative petition with the clerk of the council or the secretary of the school committee or library trustees, as the case may be. The petition shall be addressed to the town council, school committee, or library trustees, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by at least 75 voters. The signatures must be certified by the town clerk. The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.
- b) Referral to Attorney - The clerk of the council or the secretary of the school committee or library trustees, as the case may be, shall immediately following receipt of each proposed petition deliver a copy of the petition to the town attorney. The town attorney shall, within 21 days after receipt of a copy of the petition, in writing, advise the town council, school committee, or library trustees, as may be appropriate, whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the town council, school committee, or library trustees. If the opinion of the town attorney is that the measure is not in proper form, the reply shall state the reasons for this opinion in full. A copy of the opinion of the town attorney shall also be mailed to the petitioners committee
- c) Submission to Clerk - If the opinion of the town attorney is that the petition is in a proper form, the town clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of

each blank a fair, concise summary of the proposed measure, as determined by the town attorney, together with the names and addresses of the petitioners committee who signed the originating petition. Within 30 days after the date the blank forms are issued by the town clerk, the petitions shall be returned and filed with the town clerk signed by at least 75 additional voters. Signatures to an initiative petition need not all be on 1 paper but all papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, containing on the petition the street and number of the residence of each signer accompanied by the endorsement of the name and residence address of the person designated as filing the petition. Within 10 days after the filing of the petition the board of registrars of voters shall ascertain by what number of voters the petition has been signed. The town clerk shall attach to the petition a certificate showing the results of the board's examination and shall return the petition to the clerk of the council, or the secretary of the school committee, depending on how the petition is addressed. A copy of the board of registrars of voters' certificate shall also be mailed to the petitioners committee.

- d) Action on Petitions – Within 60 days after the date a petition has been returned to the clerk of the council, or the secretary of the school committee or library trustees, and after publication under Article II, section [reference], the town council, school committee, or library trustees shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be considered to be a rejection of the initiative measure. If the town council, school committee, or library trustees fails to act with respect to any initiative measure that is presented to it within 60 days after the date it is returned to it by the clerk, the measure shall be considered to have been approved on the sixtieth day. If an initiative measure is rejected, the clerk of the council, or the secretary of the school committee or library trustees, shall promptly give notice of that fact to the person designated as the clerk of the petitioners committee, by certified mail.
- e) Supplementary Petitions - 30 days after the date an initiative petition has been rejected by the council, a supplemental initiative petition may be filed with the clerk of the council or the secretary of the school committee, but only by persons constituting the original petitioners committee. The supplemental initiative petition shall be signed by a number of additional voters which is equal to 5% percent of the total number of voters as of the date of the most recent town election. If the number of signatures to the supplemental petition is found to be sufficient by the town clerk, the council shall call a special election to be held on a date fixed by it not less than 35 nor more than 90 days after the date the council votes to call for the special election and shall submit the proposed measure, without alteration, to the voters for determination, but if any other town election is to be held within 120 days after the date of the certificate, the council may omit the calling of the special election and cause the question to appear on the election ballot at the next regular town election for determination by the voters.
- f) Publication - The full text of any initiative measure which is submitted to the voters shall be published in a local newspaper not less than 7 nor more than 21 days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the town clerk, and in such other locations as may be determined by the clerk, including, but not limited to, the public library, and the official town website or similar electronic posting.
- g) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

Shall the following measure, which was proposed by an initiative petition, take effect?

(Here, insert a fair, concise summary prepared by the attorney.)

YES \_\_\_\_\_

NO \_\_\_\_\_

- h) Time of Taking Effect - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

#### SECTION 8-3: CITIZEN VETO PROCEDURES

- a) Petition, Effect on Final Vote - If, within 21 days following the date on which the town council, school committee, or library trustees has voted finally to approve any measure, a petition signed by a minimum of 5% voters and addressed to the town council, school committee, or library trustees, protesting against the measure or any part of it is filed with the Clerk of the town council or the Secretary of the school committee or library trustees, the effective date of that measure shall be temporarily suspended. The town council, school committee, or library trustees shall immediately reconsider its vote on the measure or part thereof protested against, and if the measure is not rescinded, the town council shall provide for the submission of the question for a determination by the voters either at a special election, which it may call at its convenience, within such time as may be requested by the school committee or library trustees or at the next regular town election; provided, however, that pending this submission and determination, the effect of the measure shall continue to be suspended.
- b) Submission to Town Clerk - Within 10 days following the filing of the petition, the registrars of voters shall ascertain the number of voters that signed the petition. The registrars of voters shall cause a certificate showing the results of its examination to be attached to the petition and shall return the petition to the clerk of the town council or the secretary of the school committee or library trustees, depending on how the petition is addressed. A copy of the registrars of voters' certificate shall also be mailed to the first 10 voters who signed the petition, if applicable.
- c) Referral to the Town Attorney – The clerk of the town council or the secretary of the school committee or library trustees shall, immediately following receipt of the petition, deliver a copy of the petition to the town attorney. The town attorney shall, within 21 days following receipt of a copy of the petition, in writing, advise the town council, school committee, or library trustees and the town clerk whether the measure may lawfully be protested by the citizens veto process. If the opinion of the town attorney is that the protest of the measure is not in proper form, the reply shall state the reasons for this opinion in full. If the town attorney finds it is not in proper form, the suspension on the measure shall be immediately lifted. A copy of the opinion of the town attorney shall be mailed to the first 10 voters who signed the petition.
- d) Publication - The full text of a citizens veto measure which is submitted to the voters shall be published in a local newspaper not less than 7 nor more than 21 days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the Town Clerk. Publication shall be at the town's expense.
- e) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

Shall the following measure or part thereof protested against by citizens veto take effect?

(Here insert the text of the measure or part thereof protested against as originally voted by the Town/town Council or School Committee.)

YES \_\_\_\_\_

NO \_\_\_\_\_

- f) Time of Taking Effect – If a majority of the votes cast on the question is in the affirmative, the measure as originally approved by the town council, school committee, or library trustees shall be deemed to be effective immediately.

#### SECTION 8-4: INELIGIBLE MEASURES

None of the following shall be subject to the initiative or the citizen veto procedures outlined in \_\_\_\_ - \_\_\_\_ and \_\_\_\_ - \_\_\_\_:

- a) proceedings relating to the internal organization or operation of the council or the school committee;
- b) an emergency measure adopted in conformity with the charter;
- c) the town budget or the school committee budget as a whole;
- d) revenue loan orders;
- e) any appropriation for the payment of the municipality's debt or debt service;
- f) an appropriation of funds to implement a collective bargaining agreement;
- g) proceedings relating to the election, appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;
- h) any proceedings repealing or rescinding a measure or part thereof which is protested by citizens veto procedures;
- i) any proceedings providing for the submission or referral to the voters at an election; and
- j) memorial resolutions.

#### SECTION 8-5: SUBMISSION OF OTHER MATTERS TO VOTERS

The council may of its own motion, and shall at the request of the school committee or library trustees if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular town election for adoption or rejection any measure in the same manner and with the same force and effect as is hereby provided for submission by petitions of voters.

#### SECTION 8-6. CONFLICTING PROVISIONS

If two or more measures passed at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.

#### SECTION 8-7. RECALL ELECTIONS

**Comment [T32]:** Reconsider recall if no mayor, particularly if decide on 2 year terms for councilors

Application\_- Any person holding an elected town office may be recalled from that office by the voters under the procedures made available in this section.

#### Recall Affidavit

Office Elected by Voters at Large - 250 or more voters may file with the board of registrars of voters an affidavit demanding the recall of an officer containing the name of the officer sought to be recalled and a statement of the grounds for recall. The affidavit shall be signed by 10 voters and contain their residential address stating they will constitute the petitioners committee and will be responsible for circulating the petition and filing it in proper form.

ii ) Officer Elected by District – 100 or more voters from the district where an officer elected by said district is sought to be recalled may file with the board of registrars of voters an affidavit demanding the recall of an officer containing the name of the officer whose recall is sought and a statement of the grounds for recall. The signatures on this affidavit shall contain the names only of voters in the district from which the officer was elected. The affidavit shall be signed by 10 voters and contain their residential address stating they will constitute the petitioners committee and will be responsible for circulating the petition and filing it in proper form.

Recall Petition: At Large, or by District - If the affidavit is found to be valid, the town clerk shall deliver to the petitioners committee, petition blanks demanding said recall, printed forms of which shall be kept available. The blanks may be completed by printing or by typewriting; they shall be addressed to the council; they shall contain the names and residence addresses of petitioners committee and they shall contain the grounds for recall as stated in the affidavit and they shall be dated and signed by the town clerk. The recall petitions shall be returned to the office of the board of registrars of voters within 30 days after the date they are issued, signed by not less than 15% of the total number of voters in the district for an official elected by the district, or of the municipality for an official elected at large, as of the date of the most recent regular town election. The sheets constituting a petition need not all be filed at the same time. For the purposes of this section, a petition shall be considered filed whenever the petitioners committee notifies the board of registrars of voters in writing, that the filing is complete. Before receiving such notice, the board of registrars of voters may, but shall not be required to, certify signatures on the sheets already filed. The board of registrars of voters, shall within 10 days following the date the petition forms are filed certify the number of signatures on them which are the names of voters and the percentage that number represents of the total number of voters in each district as of the date of the most recent regular town election.

Recall Election - If the petitions are certified by the board of registrars of voters to contain a sufficient number of signatures, the board shall immediately submit the petitions, with their certificate, to the council. Upon receipt of the certified petition forms, the council shall immediately give written notice to the officer whose recall is sought of the validity of the petitions. If the officer whose recall is sought does not resign the office within 5 days after delivery of the notice, or by its having been delivered to the last known place of residence of the officer, the council, after consultation with the town/town clerk, shall order a special election to be held on a date no less than 35 nor more than 90 days after the date of its notice to the officer whose recall is sought.

Ballot Question - Ballots used at the recall election shall state the proposition in substantially the following form:

Shall (insert name of officer) be recalled from the office of (insert name of office held)?



YES \_\_\_\_\_

NO \_\_\_\_\_

Officeholder - If the officer whose recall is sought has not resigned the office, the officer shall continue to hold and perform the duties of the office until the recall election. If a majority of the votes cast on the question as stated above is in the affirmative, the officer shall be deemed recalled, and the office shall be vacant upon the certification of the election results. If a majority of the votes cast on the question is in the negative, the person whose recall was sought shall continue in the office until the expiration of the term for which elected.

Restriction on Recall Affidavit - No recall affidavit shall be filed against any officer until at least 9 months following the commencement of a term of office, nor, in the case of an officer subjected to a recall election and not recalled thereby, during the remainder of the current term of office. A recall election shall not be held if less than 6 months of the term of office of the person whose recall is sought remains at the time of the certification of the petition forms.

Filling of Vacancy:

Vacancies elected offices as the result of a recall election shall be filled under sections [reference]. No person recalled from an office under the terms of this section shall be eligible to be a candidate to fill any vacancy created by that recall.

Prohibition on Officeholder Recalled - No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against such person, shall be appointed to any town office within two years after such recall or such resignation.

## ARTICLE 9: GENERAL PROVISIONS

### SECTION 9-1: CHARTER CHANGES

This charter may be replaced, revised or amended under any procedure made available under the Massachusetts constitution or by statute.

### SECTION 9-2: SEVERABILITY

The provisions of this charter are severable. If any provision of this charter is held invalid the other provisions shall not be affected thereby. If the application of this charter, or any of its provisions, to any person or circumstance is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

### SECTION 9-3: SPECIFIC PROVISION TO PREVAIL

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

### SECTION 9-4: REFERENCES TO GENERAL LAWS

All references to General Laws contained in the charter refer to the General Laws of the commonwealth of Massachusetts and are intended to refer to and to include any amendments or revisions to those chapters or sections or to the corresponding chapters and sections of any rearrangement, revision or recodification of such statutes enacted or adopted subsequent to the adoption of this charter.

### SECTION 9-5: COMPUTATION OF TIME

In computing time under this charter, the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. When the period of time designated is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall not be included; when the period is 7 days or more, every day shall be counted.

### SECTION 9-6: PERIODIC REVIEW OF CHARTER

The Council shall provide, in every year ending in a 5, for a review of the charter by a special committee to be established by bylaw. The committee shall file a report within 1 year recommending any changes to the charter which it deems necessary or desirable, unless an extension is authorized by vote of the Town Council. All members of the committee shall be voters of the town. The Town Council shall vote upon the recommendations in the report within 90 days of receipt of the recommendations.

### SECTION 9-7: PERIODIC REVIEW OF BYLAWS

The [Manager and Council? Council?] shall provide for a review of the Town's general bylaws by a special committee to be established by bylaw not less than every 10 years. The committee shall file a report within 1 year recommending any changes to the bylaws which it deems necessary or desirable, unless an extension is authorized by vote of the Town Council. All members of the committee shall be

**Comment [mjw33]:** Plus piece for the transition provisions.

voters of the town. The Town Council shall vote upon the recommendations in the report within 90 days of receipt of the recommendations.

#### SECTION 9-8: RULES AND REGULATIONS

A copy of all rules and regulations adopted by boards and committees which are subject to the Massachusetts Public Records Act shall be placed on file in the office of the Town Clerk when approved by vote of the board or committee and shall be available for review by any person who requests such information at any reasonable time. Unless an emergency exists, as determined by the [?], no rule or regulation adopted by boards and committees shall become effective until at least 5 days following the date it is filed. All such rules or regulations shall be placed on the Town website as soon as administratively possible.

#### SECTION 9-9: CERTIFICATION OF ELECTION OR APPOINTMENT

Every person who is elected or appointed to an office or as a member of a multiple-member body shall receive a certificate of that election or appointment from the Town Clerk. Except as otherwise provided by law, every person who is elected or appointed to an office or as a member of a multiple-member body, before performing any act under this election or appointment, shall take and subscribe to an oath or affirmation to qualify to enter upon the duties. A record of this oath or affirmation shall be kept by the Town Clerk.

#### SECTION 9-10: UNIFORM PROCEDURES APPLICABLE TO MULTIPLE MEMBER BODIES

(a) Meetings- All multiple member bodies of the town shall meet regularly at such times and places as they may, by their own rules, prescribe, unless some other provision is made by bylaw. Special meetings of any multiple member body may be held if called by the chair or by one-third of the members thereof but not fewer than 2, provided that at least 48 hours notice listing the item or items to be acted upon shall be given to each member. All meetings must be posted and comply with the Open Meeting Laws of the Commonwealth.

**Comment [mjw34]:** Look for different wording

(b) Rules and Minutes- Each multiple member body shall determine its own rules and order of business unless another provision is made by bylaw and shall provide for the keeping of minutes and supporting documentation of its proceedings. These minutes shall be a public record and published on the Town website.

**Comment [mjw35]:** Check if supposed to be on file currently (Clerk? BoS?)

(c) Voting- If requested by any member, any vote of any multiple member body shall be taken by a call of the roll and the vote of each member shall be recorded in the minutes; if the vote is unanimous only that fact need be recorded.

(d) Composition of Appointed Multiple-Member Bodies - All appointed multiple-member bodies, when established, shall be composed of an odd number of members, of not less than three. Whenever the terms of office of an appointed multiple-member body are for more than one year, such terms of office shall be so arranged that as nearly as possible an equal number of terms will expire each year.

**Comment [mjw36]:** Mirror school committee for library trustees?

#### SECTION 9-11: REMOVAL OF MEMBER OF MULTIPLE MEMBER BODIES

Any officials appointed by the **manager** to a multiple member body may be removed from office by the **manager** if said official fails to attend regularly scheduled meetings for a period of three consecutive months without express leave from the chair of such multiple member body, unless the **manager** shall determine otherwise. Any such appointed official shall be automatically removed from office if such person is convicted of a felony or if such person is absent from such duties for the period of one year notwithstanding the permission from the chair to be absent.

#### SECTION 9-12: LIMITATION ON OFFICE HOLDING

No person shall simultaneously hold more than 1 full-time town office or position of employment. Any hours worked in any part-time position shall not be the same or otherwise conflict with the hours worked in a full-time position.

#### SECTION 9-13: NOTICE OF VACANCIES

Whenever a vacancy occurs, or is about to occur, in any town office or town employment, except for positions covered by the civil service law, the appointing authority shall immediately cause public notice of the vacancy, or impending vacancy, to be posted on the town bulletin board for a period of not less than 14 days. Any person who desires to be considered for appointment to the office or employment may file with the appointing authority a statement in clear and specific terms setting forth the person's qualifications for the position. No permanent appointment to fill a vacancy in an office or employment shall be effective until at least 14 days have elapsed following the posting, and until all persons who have filed statements in application have been considered.

#### SECTION 9-14: FELONY CONVICTION

An elected official who has been convicted of a state or federal felony while holding office shall be deemed to have vacated the office.

## ARTICLE 10: TRANSITION PROVISIONS

TBD

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